

Message Text

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DRAFTED BY NEA/RA:DTMORRISON:JR

APPROVED BY NEA:ARDBY

NEA/RA:SEPALMER, JR.

NEA/ARP:JCOUNTRYMAN

H:KJENKINS

L/NEA:JROHWER

EB/OCA/CM:LAKLIEFORTH (SUBS)

EB/CSB:JNESVIG (SUBS)

AF/EPS:RDUNCAN (SUBS)

EUR/RPE:PLASSE (SUBS)

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FM SECSTATE WASHDC

TO AMEMBASSY ABU DHABI IMMEDIATE

AMEMBASSY ALGIERS IMMEDIATE

AMEMBASSY AMMAN IMMEDIATE

AMEMBASSY CAIRO IMMEDIATE

AMEMBASSY DAMASCUS IMMEDIATE

AMEMBASSY DOHA IMMEDIATE

AMEMBASSY JIDDA IMMEDIATE

AMEMBASSY KHARTOUM IMMEDIATE

AMEMBASSY KUWAIT IMMEDIATE

AMEMBASSY MANAMA IMMEDIATE

AMEMBASSY MUSCAT IMMEDIATE

AMEMBASSY NOUAKCHOTT IMMEDIATE

AMEMBASSY RABAT IMMEDIATE

AMEMBASSY SANA IMMEDIATE

AMEMBASSY TRIPOLI IMMEDIATE

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AMEMBASSY TUNIS IMMEDIATE

INFO ALL OECD CAPITALS
AMEMBASSY TEL AVIV

C O N F I D E N T I A L STATE 216549

KUWAIT PASS BAGHDAD

E.O. 11652: GDS

TAGS: ETRD

SUBJECT: HIRC APPROVES TOUGH ANTI-BOYCOTT ANTI-DISCRIMINATION AMENDMENT TO EXPORT ADMINISTRATION ACT

REF: STATE 028459

1. ON AUGUST 31, HOUSE INTERNATIONAL RELATIONS COMMITTEE APPROVED 27 TO 1 A STRINGENT ANTI-BOYCOTT ANTI-DISCRIMINATION AMENDMENT SPONSORED BY REPS. BINGHAM, RO-ENTHAL, AND KOCH.

2. DISCRIMINATION PROVISIONS GO BEYOND USDOC EXPORT ADMINISTRATION ACT REGULATIONS AND BEYOND ANTI-DISCRIMINATION PROVISIONS OF SENATE-APPROVED EXTENSION OF EXPORT ADMINISTRATION ACT BY ALSO PROHIBITING DISCRIMINATION ON BASIS OF NATIONALITY.

3. BOYCOTT PROVISIONS COMBINE DISCLOSURE OF BOYCOTT-RELATED REPORTS AND REFUSAL-TO-DEAL PROVISIONS OF STEVENSON BILL (PASSED BY SENATE AFTER INCORPORATION IN BILL EXTENDING EXPORT ADMINISTRATION ACT) WITH PROHIBITION AGAINST RESPONSES BY U.S. FIRMS TO ANY BOYCOTT-RELATED REQUEST. HIRC-APPROVED AMENDMENT ALSO WOULD CHANGE EXISTING ACT "TO REQUIRE" THAT FIRMS NOT ACT IN FURTHERANCE OF BOYCOTTS OF FRIENDLY COUNTRIES. SPECIFICALLY, AMENDMENT PROVIDES "NO U.S. PERSON SHALL TAKE ANY ACTION WITH INTENT TO COMPLY WITH OR TO FURTHER OR SUPPORT ANY TRADE BOYCOTT FOSTERED OR IMPOSED BY ANY FOREIGN COUNTRY AGAINST A COUNTRY WHICH IS FRIENDLY TO THE UNITED STATES." PROVISIONS WOULD BE EXTENDED EXTRA-TERRITORIALY TO APPLY TO ANY FOREIGN SUBSIDIARY OR

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AFFILIATE OF ANY DOMESTIC BUSINESS CONCERN.

4. SECRETARY OF COMMERCE REQUIRED BY PROVISIONS OF ACT TO PROHIBIT FOLLOWING ACTIONS (WITH REQUISITE INTENT):

(I) "DISCRIMINATING AGAINST ANY UNITED STATES PERSON INCLUDING ANY OFFICER, EMPLOYEE, AGENT, DIRECTOR, OR STOCKHOLDER...ON BASIS OF RACE, COLOR, RELIGION, SEX,

NATIONALITY, OR NATIONAL ORIGIN."

(II) "BOYCOTTING OR REFRAINING FROM DOING BUSINESS WITH ANY UNITED STATES PERSON, WITH THE BOYCOTTED COUNTRY, WITH ANY BUSINESS CONCERN IN OR OF THE BOYCOTTED COUNTRY, ...OR WITH ANY BUSINESS CONCERN OR OTHER PERSON WHICH HAS DONE, DOES, OR PROPOSES TO DO BUSINESS WITH THE BOYCOTTED COUNTRY, WITH ANY BUSINESS CONCERN IN OR OF THE BOYCOTTED COUNTRY, OR ANY NATIONAL OR RESIDENT OF THE BOYCOTTED COUNTRY."

(III) "FURNISHING INFORMATION WITH RESPECT TO THE RACE, COLOR, RELIGION, SEX, NATIONALITY, OR NATIONAL ORIGIN OF ANY PAST, PRESENT, OR PROPOSED OFFICER, EMPLOYEE, AGENT, DIRECTOR, OR STOCKHOLDER OR OTHER OWNER OF ANY UNITED STATES PERSON (FIRM)."

(IV) "FURNISHING INFORMATION ABOUT ANY PAST, PRESENT, OR PROPOSED BUSINESS RELATIONSHIP, INCLUDING RELATIONSHIP BY WAY OF SALE, PURCHASE, LEGAL OR COMMERCIAL REPRESENTATION, SHIPPING OR OTHER TRANSPORT, INSURANCE, INVESTMENTS OR SUPPLY, WITH ANY UNITED STATES PERSON, WITH THE BOYCOTTED COUNTRY, WITH ANY BUSINESS CONCERN IN OR OF THE BOYCOTTED COUNTRY, WITH ANY NATIONAL OR RESIDENT OF THE BOYCOTTED COUNTRY, OR WITH ANY BUSINESS CONCERN OR OTHER PERSON WHICH HAS DONE, DOES, OR PROPOSES TO DO BUSINESS WITH THE BOYCOTTED COUNTRY..."

5. PENALTY PROVISIONS WOULD ALLOW PRIVATE SUITS FOR TREBLE DAMAGES, LITIGATION COSTS, AND OTHER APPROPRIATE RELIEF.

6. MERE ABSENCE OF BUSINESS RELATIONSHIP WITH BOYCOTTED COUNTRY WOULD NOT INDICATE REQUISITE INTENT TO ACT CONTRARY TO AMENDMENT PROVISIONS.

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7. DESPITE 27 TO 1 VOTE, SEVERAL HIRC MEMBERS EXPRESSED RESERVATIONS ABOUT EFFECTIVENESS OF BINGHAM-ROSENTHAL-KOCH AMENDMENT IN DEALING WITH BOYCOTT PROBLEM AND CONCERN THAT UNINTENDED EFFECT MIGHT BE TO ADVERSELY AFFECT IMPORTANT U.S. MIDDLE EAST INTERESTS, INCLUDING SPECIFICALLY EFFECTIVE U.S. PEACEMAKING ROLE AND U.S. JOBS/EXPORTS DERIVED FROM EXPANDING U.S. TIES WITH ARAB COUNTRIES. CONCERN FOR ACTING AGAINST RELIGIOUS/ETHNIC DISCRIMINATION REMAINED PERVASIVE ELEMENT IN STATEMENTS OF NEARLY ALL HIRC MEMBERS WHETHER VOTING ENTHUSIASTICALLY OR RELUCTANTLY IN FAVOR OF AMENDMENT.

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(E.G., ASSOCIATION OF BOYCOTT PRACTICES WITH SEPARATE ISSUE RELIGIOUS/ETHNIC DISCRIMINATION). DEPT REPRESENTATIVE PRESENT DID SUCCEED, HOWEVER, IN MAKING RECORD OF ADMINISTRATION POSITION THAT ACTIVE U.S. ROLE AND ARAB COUNTRY CONFIDENCE/COOPERATION REMAIN ESSENTIAL ELEMENTS IN FURTHER PROGRESS TOWARD ARAB-ISRAEL SETTLEMENT AND THAT ANTI-BOYCOTT LEGISLATION WOULD GREATLY HINDER CONTINUING U.S. EFFORTS WITHOUT BRINGING SOLUTION TO BOYCOTT PROBLEM. DESPITE TESTIMONY BY ASST SECY GREENWALD, SECRETARY RICHARDSON AND SECRETARY SIMON DURING JUNE 8-10 HEARINGS ON BOYCOTT ASPECTS OF EXPORT ADMINISTRATION ACT, THERE CONTINUED TO BE GREAT DEAL OF CONFUSION BETWEEN BOYCOTT AND DISCRIMINATION ISSUES.

9. WE ANTICIPATE THAT EXTENSION OF EXPORT ADMINISTRATION ACT WILL BE TAKEN UP ON HOUSE FLOOR SOON AFTER LABOR DAY RECESS WITH RESULTING QUICK PASSAGE OF ABOVE-DESCRIBED PROVISIONS. QUESTION THEN WILL BE WHETHER HOUSE-SENATE CONFERENCE WILL ADOPT TOUGH HOUSE PROVISIONS OR MORE MODERATE SENATE (STEVENSON) PROVISIONS OR "SPLIT DIFFERENCE".

10. WE HAVE OPPOSED ANY NEW ANTI-BOYCOTT LEGISLATION INCLUDING MORE MODERATE STEVENSON BILL BECAUSE OF ASSESSMENT THAT RESULT WILL BE UNPRODUCTIVE OR EVEN COUNTER TO INTENT TO LESSEN IMPACT OF BOYCOTT AND BECAUSE OF SERIOUS CONCERN ABOUT NEGATIVE FOREIGN POLICY IMPLICATIONS.
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11. RESULTING TOUGHER LEGISLATION MAY BE PRICE OF MAINTAINING POLICY OF OPPOSITION TO ANY NEW LEGISLATION. POST VIEWS ON VALUE OF MAINTAINING ADMINISTRATION OPPOSITION TO ANY NEW LEGISLATION AS MEANS OF MITIGATING REACTIONS OF ARAB GOVERNMENTS ARE OF INTEREST.

12. IN RESPONDING TO INQUIRIES ABOUT PENDING LEGISLATION, POSTS MAY INDICATE (1) WIDESPREAD U.S. CONCERN TRIGGERED BY OCCASIONAL INSTANCES OF RELIGIOUS OR ETHNIC DISCRIMINATION (E.G., REPORTED EXCLUSION OF JEWISH-OWNED INVESTMENT BANKS IN EUROPE FROM CONSORTIA INVOLVING ARAB BANKS, VISA APPLICATION PROBLEMS SOMETIMES ENCOUNTERED BY AMERICAN JEWS, AND OCCASIONAL INTERJECTION OF RELIGIOUS STIPULATIONS INTO OTHERWISE STANDARD BOYCOTT CLAUSES) AND (2) SEPARATE STRONG MORAL CONCERN THAT FOREIGN GOVERNMENTS NOT IMPOSE ON U.S. FIRMS RESPONSIBILITIES FOR ENFORCING THEIR BOYCOTTS OF COUNTRIES FRIENDLY TO THE UNITED STATES.

13. ALTHOUGH NEITHER SET OF PROBLEMS HAS BEEN DEALT WITH IN TIME OR MANNER ADEQUATE TO AVOID NEW RESTRICTIVE LEGISLATION, CONTINUING ACCOMMODATION TO THESE BASIC CONCERNS

BY GUARDING AGAINST ACTS OF DISCRIMINATION AND BY GREATER ACCEPTANCE OF TYPE OF EXPORT AND CONTRACT DOCUMENTATION NORMALLY REQUIRED BY COUNTRIES NOT ENGAGED IN BOYCOTT ACTIONS (E.G., POSITIVE DESCRIPTIONS OF GOODS/SERVICES) WILL HAVE DESIRABLE EFFECT OF LESSENING IMPACT OF THESE PROBLEMS.

14. WE RECOGNIZE THAT MOST ARAB COUNTRIES HAVE CLEARLY STATED POLICIES OF OPPOSITION TO RELIGIOUS/ETHNIC DISCRIMINATION AND THAT MANY HAVE ALREADY GONE SUBSTANTIAL WAY TO MEET GROWING CONCERNS OF U.S. BUSINESSMEN THAT THEY NOT BE INVOLVED WITH BOYCOTT ENFORCEMENT PRACTICES. THEIR ACTIONS ARE RECOGNIZED AND APPRECIATED WITHIN THE ADMINISTRATION IF NOT BY THE CONGRESS OR THE PUBLIC.

15. FULL PROMPT REPORTING REQUESTED ON OFFICIAL AND PRESS REACTION TO HIRC ACTION ON EXPORT ADMINISTRATION ACT AND TO SUBSEQUENT LEGISLATIVE DEVELOPMENTS ON ARAB BOYCOTT MATTERS. AS DEEMED APPROPRIATE, POSTS MAY SEEK TO CONFIDENTIAL

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EXPLAIN U.S. CONCERNS AND ADMINISTRATION POSITION AND TO PERSUADE HOST COUNTRY OFFICIALS THAT LEGISLATIVE DEVELOPMENTS SHOULD NOT INTERFERE WITH FURTHER EXPANSION OF CLOSE AND MUTUALLY BENEFICIAL U.S.-ARAB COUNTRY ECONOMIC RELATIONSHIPS. ROBINSON

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DRAFTED BY:EUR/CAN:DBLAKEMORE
APPROVED BY:EUR/CAN:JHROUSE, JR.
NEA/RA:DTMORRISON

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FM SECSTATE WASHDC
TO AMEMBASSY OTTAWA

C O N F I D E N T I A L STATE 216549

FOLLOWING SECSTATE 216549 SENT ACTION ABU DHABI ALGIERS AMMAN
CAIRO DAMASCUS DOHA JIDDA KHARTOUM KUWAIT MANAMA MUSCAT
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C O N F I D E N T I A L STATE 216549

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ORIGIN NEA-03

INFO OCT-01 ISO-00 /004 R

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DRAFTED BY NEA/P:RONEILL:RGH

APPROVED BY NEA/P:GFSHERMAN

NEA/ARP - MR. TWINAM

NEA/RA - MR. PALMER

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FM SECSTATE WASHDC

TO USMISSION USUN NEW YORK IMMEDIATE

C O N F I D E N T I A L STATE 216549

FOR MR SIDNEY SOBER FROM NEA/P

FOL REPEAT STATE 216549 ACTION OTTAWA DTD 29SEP.

QUOTE

C O N F I D E N T I A L STATE 216549

FOLLOWING SECSTATE 216549 SENT ACTION ABU DHABI ALGIERS AMMAN
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5. PENALTY PROVISIONS WOULD ALLOW PRIVATE SUITS FOR TREBLE DAMAGES, LITIGATION COSTS, AND OTHER APPROPRIATE RELIEF.

6. MERE ABSENCE OF BUSINESS RELATIONSHIP WITH BOYCOTTED COUNTRY WOULD NOT INDICATE REQUISITE INTENT TO ACT CONTRARY TO AMENDMENT PROVISIONS.

7. DESPITE 27 TO 1 VOTE, SEVERAL HIRC MEMBERS EXPRESSED RESERVATIONS ABOUT EFFECTIVENESS OF BINGHAM-ROSENTHAL-KOCH AMENDMENT IN DEALING WITH BOYCOTT PROBLEM AND CONCERN THAT UNINTENDED EFFECT MIGHT BE TO ADVERSELY AFFECT IMPORTANT U.S. MIDDLE EAST INTERESTS, INCLUDING SPECIFICALLY EFFECTIVE U.S. PEACEMAKING ROLE AND U.S. JOBS/EXPORTS DERIVED FROM EXPANDING U.S. TIES WITH ARAB COUNTRIES. CONCERN FOR ACTING AGAINST RELIGIOUS/ETHNIC DISCRIMINATION REMAINED PERVASIVE ELEMENT IN STATEMENTS OF NEARLY ALL HIRC MEMBERS WHETHER VOTING ENTHUSIASTICALLY OR RELUCTANTLY IN FAVOR OF AMENDMENT.

8. MARK-UP SESSION DID NOT GIVE ADMINISTRATION OCCASION TO REBUT MANY UNWARRANTED CHARGES ATTRIBUTED TO BOYCOTT

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(E.G., ASSOCIATION OF BOYCOTT PRACTICES WITH SEPARATE ISSUE RELIGIOUS/ETHNIC DISCRIMINATION). DEPT REPRESENTATIVE PRESENT DID SUCCEED, HOWEVER, IN MAKING RECORD OF ADMINISTRATION POSITION THAT ACTIVE U.S. ROLE AND ARAB COUNTRY CONFIDENCE/COOPERATION REMAIN ESSENTIAL ELEMENTS IN FURTHER PROGRESS TOWARD ARAB-ISRAEL SETTLEMENT AND THAT ANTI-BOYCOTT LEGISLATION WOULD GREATLY HINDER CONTINUING U.S. EFFORTS WITHOUT BRINGING SOLUTION TO BOYCOTT PROBLEM. DESPITE TESTIMONY BY ASST SECY GREENWALD, SECRETARY RICHARDSON AND SECRETARY SIMON DURING JUNE 8-10 HEARINGS ON BOYCOTT ASPECTS OF EXPORT ADMINISTRATION ACT, THERE CONTINUED TO BE GREAT DEAL OF CONFUSION BETWEEN BOYCOTT AND DISCRIMINATION ISSUES.

9. WE ANTICIPATE THAT EXTENSION OF EXPORT ADMINISTRATION ACT WILL BE TAKEN UP ON HOUSE FLOOR SOON AFTER LABOR DAY RECESS WITH RESULTING QUICK PASSAGE OF ABOVE-DESCRIBED PROVISIONS. QUESTION THEN WILL BE WHETHER HOUSE-SENATE CONFERENCE WILL ADOPT TOUGH HOUSE PROVISIONS OR MORE MODERATE SENATE (STEVENSON) PROVISIONS OR "SPLIT DIFFERENCE".

10. WE HAVE OPPOSED ANY NEW ANTI-BOYCOTT LEGISLATION INCLUDING MORE MODERATE STEVENSON BILL BECAUSE OF ASSESSMENT THAT RESULT WILL BE UNPRODUCTIVE OR EVEN COUNTER TO INTENT TO LESSEN IMPACT OF BOYCOTT AND BECAUSE OF SERIOUS

CONCERN ABOUT NEGATIVE FOREIGN POLICY IMPLICATIONS.

11. RESULTING TOUGHER LEGISLATION MAY BE PRICE OF MAINTAINING POLICY OF OPPOSITION TO ANY NEW LEGISLATION. POST VIEWS ON VALUE OF MAINTAINING ADMINISTRATION OPPOSITION TO ANY NEW LEGISLATION AS MEANS OF MITIGATING REACTIONS OF ARAB GOVERNMENTS ARE OF INTEREST.

12. IN RESPONDING TO INQUIRIES ABOUT PENDING LEGISLATION, POSTS MAY INDICATE (1) WIDESPREAD U.S. CONCERN TRIGGERED BY OCCASIONAL INSTANCES OF RELIGIOUS OR ETHNIC DISCRIMINATION (E.G., REPORTED EXCLUSION OF JEWISH-OWNED INVESTMENT BANKS IN EUROPE FROM CONSORTIA INVOLVING ARAB BANKS, VISA APPLICATION PROBLEMS SOMETIMES ENCOUNTERED BY AMERICAN JEWS, AND OCCASIONAL INTERJECTION OF RELIGIOUS STIPULATIONS INTO OTHERWISE STANDARD BOYCOTT CLAUSES) AND (2) SEPARATE CONFIDENTIAL

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STRONG MORAL CONCERN THAT FOREIGN GOVERNMENTS NOT IMPOSE ON U.S. FIRMS RESPONSIBILITIES FOR ENFORCING THEIR BOYCOTTS OF COUNTRIES FRIENDLY TO THE UNITED STATES.

13. ALTHOUGH NEITHER SET OF PROBLEMS HAS BEEN DEALT WITH IN TIME OR MANNER ADEQUATE TO AVOID NEW RESTRICTIVE LEGISLATION, CONTINUING ACCOMMODATION TO THESE BASIC CONCERNS BY GUARDING AGAINST ACTS OF DISCRIMINATION AND BY GREATER ACCEPTANCE OF TYPE OF EXPORT AND CONTRACT DOCUMENTATION NORMALLY REQUIRED BY COUNTRIES NOT ENGAGED IN BOYCOTT ACTIONS (E.G., POSITIVE DESCRIPTIONS OF GOODS/SERVICES) WILL HAVE DESIRABLE EFFECT OF LESSENING IMPACT OF THESE PROBLEMS.

14. WE RECOGNIZE THAT MOST ARAB COUNTRIES HAVE CLEARLY STATED POLICIES OF OPPOSITION TO RELIGIOUS/ETHNIC DISCRIMINATION AND THAT MANY HAVE ALREADY GONE SUBSTANTIAL WAY TO MEET GROWING CONCERNS OF U.S. BUSINESSMEN THAT THEY NOT BE INVOLVED WITH BOYCOTT ENFORCEMENT PRACTICES. THEIR ACTIONS ARE RECOGNIZED AND APPRECIATED WITHIN THE ADMINISTRATION IF NOT BY THE CONGRESS OR THE PUBLIC.

15. FULL PROMPT REPORTING REQUESTED ON OFFICIAL AND PRESS REACTION TO HIRC ACTION ON EXPORT ADMINISTRATION ACT AND TO SUBSEQUENT LEGISLATIVE DEVELOPMENTS ON ARAB BOYCOTT MATTERS. AS DEEMED APPROPRIATE, POSTS MAY SEEK TO EXPLAIN U.S. CONCERNS AND ADMINISTRATION POSITION AND TO PERSUADE HOST COUNTRY OFFICIALS THAT LEGISLATIVE DEVELOPMENTS SHOULD NOT INTERFERE WITH FURTHER EXPANSION OF CLOSE AND MUTUALLY BENEFICIAL U.S.-ARAB COUNTRY ECONOMIC RELATIONSHIPS. ROBINSON UNQUOTE ROBINSON

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